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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,471	01/29/2004	Takeshi Morita	2004_0135A	3718
513	7590	12/16/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			ORTIZ, EDGARDO	
2033 K STREET N. W.				
SUITE 800			ART UNIT	
WASHINGTON, DC 20006-1021			PAPER NUMBER	
			2815	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/766,471

Applicant(s)

MORITA, TAKESHI

Examiner

Edgardo Ortiz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/29/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Motoyama et al. (U.S. Patent No. 6,099,992). With regard to Claim 1, Motoyama discloses a semiconductor device (column 1, lines 8-10) comprising:

a wiring pattern (34a-34c) and a plurality of dummy patterns (35a-35c) different from the wiring pattern (column 10, lines 24-25); and

an insulating film (36) formed on the wiring pattern and the dummy patterns by a chemical vapor deposition method and planarized by CMP (column 10, lines 31-34). *[It should be noted that the limitation "by a chemical vapor deposition and planarized by CMP" is a product-by-process limitation which does not patentably or structurally distinguish the claimed invention from that disclosed by Motoyama. Furthermore, the presence of process limitations on product claims, which product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. In re Stephens 145 USPQ 656 (CCPA 1965).]*

wherein the dummy patterns, are provided with pattern non-forming regions having a width filled by plus sizing of the insulating film upon formation of the insulating film (column 10, lines 49-65 and figure 9E).

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With regard to Claim 2, Motoyama discloses pattern non-forming regions of the dummy regions (35a-35c) are formed in stripe-form (see figure 9E).

With regard to Claim 3, Motoyama discloses pattern non-forming regions of dummy regions (22) are formed in character or graphical form (see figures 5A- 5E which disclose another embodiment).

With regard to Claim 4, Motoyama discloses pattern non-forming regions of dummy regions (22) are formed in character or graphical forms different (22e-22i) every said dummy patterns (see figures 5A-5E).

With regard to Claim 5, Motoyama discloses dummy patterns (22) that are square-shaped (see figures 5A-5E).

With regard to Claim 6, Motoyama discloses dummy patterns (22) that are arranged in lattice-form (column 7, lines 29-39).

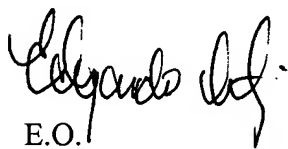
### ***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo Ortiz whose telephone number is 571-272-1735. The examiner can normally be reached on Monday-Friday (1st Friday Off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on 571-272-1664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E.O.

A.U. 2815

12/11/04